

CITY OF OAKLAND
OFFICE OF THE CITY CLERK
OAKLAND
AGENDA REPORT

2007 DEC -6 . PM 5: 03

TO: Office of the City Administrator
ATTN: Ms. Deborah Edgerly
FROM: Office of the City Administrator, Special Activity Unit
DATE: December 18, 2007

RE: Adopt an Ordinance Amending Ordinance Number 12809 C.M.S. (Master Fee Schedule), as Amended, to Establish a Notification Fee for Business Permit Applications Subject to Title 5, "Business Taxes, Permits, And Regulations", of the Oakland Municipal Code that Involve the Ongoing Use of Property

SUMMARY

On November 13, 2007, the Public Safety Committee considered proposed amendments to Oakland Municipal Code (OMC) Chapter 5.02 to provide better notification regarding public hearings on permit applications under Title 5 of the OMC. Among the options proposed by staff was the notification of property owners within 300 feet of the applicant property by mail and the posting of notices within 300 feet of the applicant property. The Committee amended these proposals to include mailed notice to residents, as well as owners, within 300 feet of the applicant property and included a provision that the cost of the notification process be an additional separate fee collected with the application fee. The Committee indicated that the fee of \$600, currently charged by the Planning and Zoning Department to provide similar notification within the same distance range, was a reasonable amount to cover the costs associated with the proposed notification process.

FISCAL IMPACT

The proposed fee would apply only to new permits that involve the ongoing use of property for the operation of the permit. An average of approximately two of these permits are processed per month. At the proposed rate of \$600 per application, this number would result in annual revenues to the City of approximately \$14,400. These additional revenues will be deposited in The General Purpose Fund (1010), City Administration Organization (02111), Police Permits Account (42411).

KEY ISSUES AND IMPACTS

▪ *Expanded Noticing Requirements*

OMC Section 5.02.050 currently requires minimal notification regarding the public hearings conducted on applications for permits under OMC Title 5. Application notices must be posted on the premises, in the newspaper, and on the City bulletin board three only (3) days before the

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hearing. The result is that nearby residents are often unaware of the application until the hearing has been conducted and the permit approved, with no or little input from the public.

To rectify this situation, staff proposes to extend the posting time to 30 days before the hearing. Staff also presented an option that would utilize the Oakland Planning Code's method of, in addition to posting the premises, posting notices within 300 feet of the premises and notifying property owners in writing, by U. S. Mail, who own property within 300 feet of the applicant property of the hearing date.

▪ ***Cost of Notification and Responsibility for Payment for Notification Process***

The Public Safety Committee decided that both the extended posting time and the additional methods of notification should be used, and that residents should also be notified. The discussion then turned to the issues of cost and payment. The Committee expressed their belief that the costs of notification should be borne by applicants. Staff explained that the City's Zoning Department, which utilizes the proposed method for hearing notification, has determined that a fee of \$600 covers the cost of materials and staff time for the notification process.

Staff expressed a concern that this is a substantial cost relative to the current application filing fees for permits under this title. The most frequently processed applications that would be affected by the notification fee¹ and the application filing fees for these permits are:

<u>Permit Type</u>	<u>Application Fee</u>
Pet Shop, Animal Hospital, Kennel	\$ 400
Cabaret	600
Pool Room or Bowling Alley	400
Massage Establishment	400
Pawn Broker	310
Bingo Hall	1,000
Medical Cannabis	10,000 - 30,000 ²

Additionally, applicants must pay for inspections and other processes that may add several hundred dollars to the application costs. The Committee considered this, and concluded that the \$600 fee was justified to cover the City's costs.

¹ It is not anticipated that the notification process would be used for Title 5 permit applications that are primarily for personal services, such as massage therapists and taxi drivers. Nor is it anticipated that the process would be used for permits that utilize property only on a very transient basis, such as carnivals or charitable solicitation events.

² This fee is dependent upon the number of patients served by the dispensary.

SUSTAINABLE OPPORTUNITIES

Economic

The business permits issued under Title 5 of the OMC generate jobs and tax revenues for the City. It is not anticipated that the notification fee would have a chilling effect on the number of businesses that apply for these types of permits.

Environmental

There are no known environmental impacts of the proposed notification fee.

Social Equity

Notification of individual property owners and residents of public hearings on permit applications submitted in their area will facilitate the important purpose of generating public dialogue on these permits. Increased public dialogue should, in turn, result in permitting decisions based upon more and better information.

DISABILITY AND SENIOR CITIZEN ACCESS

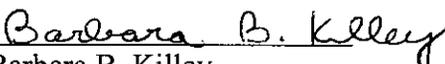
There are no known disability or senior citizen access issues.

ACTION REQUESTED OF THE CITY COUNCIL

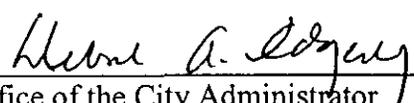
Staff requests that the City Council:

1. Accept this Staff Report
2. Adopt the ordinance amending Ordinance Number 12809 C.M.S. (Master Fee Schedule), as amended, to establish a notification fee for business permit applications subject to Title 5 of the Oakland Municipal Code that involve the ongoing use of property.

Respectfully submitted,


Barbara B. Killey
Assistant to the City Administrator

APPROVED AND FORWARDED THE
THE CITY COUNCIL.


Office of the City Administrator

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INTRODUCED BY COUNCILMEMBER _____

Seth R. Jackson
City Attorney

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

2007 DEC -5 PM 5:03
ORDINANCE No. _____ C.M.S.

AN ORDINANCE AMENDING ORDINANCE NUMBER 12809 C.M.S. (MASTER FEE SCHEDULE), AS AMENDED, TO ESTABLISH A NOTIFICATION FEE FOR BUSINESS PERMIT APPLICATIONS SUBJECT TO TITLE 5, "BUSINESS TAXES, PERMITS, AND REGULATIONS", OF THE OAKLAND MUNICIPAL CODE THAT INVOLVE THE ONGOING USE OF PROPERTY

WHEREAS, Oakland Municipal Code Chapter 5.02 defines the application process for specified types of business permits; and

WHEREAS, part of the application process requires conducting a public hearing on the application; and

WHEREAS, Oakland Municipal Code Chapter 5.02 was recently amended to provide that "For applications involving the ongoing use of property, notice of the hearing shall be given by posting notices thereof within three hundred (300) feet of the property involved in the application. Notice of the hearing shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved and to all addresses within three hundred (300) feet of the property."; and

WHEREAS, the amendment also specified that, "The fee for the notification process, as established by the Master Fee Schedule, shall be a separate charge in addition to the application fee."; and

WHEREAS, the City's Zoning Department utilizes a similar process, when required for notification of permit applications within their purview, and has determined that the current average cost of such notification is \$600.00; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The Master Fee Schedule as set forth in Ordinance Number 12809 C.M.S., as amended, is hereby amended to establish a notification fee for business permit applications subject to Title 5 of the Oakland Municipal Code that involve the ongoing use of property, as set forth in Exhibit A, attached hereto and made a part hereof.

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SECTION 2. This ordinance shall be effective immediately upon final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption by the Council of the City of Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

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ORA/COUNCIL

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Notice & Digest

AN ORDINANCE AMENDING ORDINANCE NUMBER 12809 C.M.S. (MASTER FEE SCHEDULE), AS AMENDED, TO ESTABLISH A NOTIFICATION FEE FOR BUSINESS PERMIT APPLICATIONS SUBJECT TO TITLE 5, "BUSINESS TAXES, PERMITS, AND REGULATIONS", OF THE OAKLAND MUNICIPAL CODE THAT INVOLVE THE ONGOING USE OF PROPERTY

This is an ordinance amending Ordinance No. 12809 C.M.S., Oakland's Master Fee Schedule ordinance, to establish a fee to cover the cost of notification of applications for business permits subject to Oakland Municipal Code Title 5 that involve the ongoing use of property. Mailed and posted notice of the public hearing on such applications will also be provided to property owners and residents within 300 feet of the applicant property. The fee is proposed to be established at \$600.00 per application.


COUNCIL

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CITY ADMINISTRATOR

City of Oakland

Amendment to the Master Fee Schedule

<u>Fee Description</u>	<u>Fee</u>	<u>Unit</u>
SPECIAL ACTIVITIES		
H. HEARING NOTIFICATION FEE	\$600.00	Permit

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ORACOUNCIL

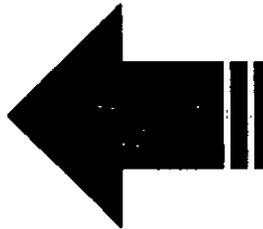
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Landscape Feed

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This is a Patch T type separator sheet.



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CODE128 type barcode



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REVISED
NOV 20 2007

OFFICE OF THE CITY CLERK
APPROVED AS TO FORM AND LEGALITY

Beth C. Jackson
Deputy City Attorney

2007 NOV 20 PM 3:35

INTRODUCED BY CITY COUNCIL MEMBER _____

ORDINANCE NO. _____ C.M.S.

**ADOPT AN ORDINANCE AMENDING OAKLAND MUNICIPAL CODE
CHAPTER 5.02 TO PROVIDE MORE NOTICE TO RESIDENTS OF
BUSINESS PERMIT APPLICATIONS**

WHEREAS, currently the City is required to give residents only three days notice, by posting on the premises and by notification in the official newspaper of the City, of hearings on applications for Business Permits under this Chapter; and

WHEREAS, three days is frequently insufficient time for residents to see the notice posted on the premises, to notify others, or to make arrangements to attend the hearing; and

WHEREAS, thirty days would provide more reasonable notice of hearings conducted under this chapter; and

WHEREAS, providing thirty days of posted notice would require conducting the hearing more than the currently required thirty days following completion of the application;

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. It is the intent of the City Council in enacting this ordinance, to facilitate community feedback on business permit applications.

SECTION 2. The City Council finds and determines the forgoing recitals to be true and correct and hereby makes them a part of this ordinance.

SECTION 3. The City Council finds and determines that the adoption of this Ordinance is exempt from CEQA under Sections 15061(b)(3) of the State CEQA Guidelines and authorizes the filing of a Notice of Exemption with the Alameda County Clerk.

SECTION 4. Oakland Municipal Code Chapter 5.12 is hereby amended to read as follows; additions are indicated by underscoring and deletions are indicated by ~~strike-through type~~; portions of the regulations not cited or not shown in underscoring or ~~strike-through type~~ are not changed:

Oakland Municipal Code Chapter 5.02 is amended as follows; additions are indicated by underscoring and deletions are indicated by ~~strike-through type~~; portions of

10.7-200
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ordinances not cited or not shown in underscoring or strike-through type are not changed:

5.02.030 Procedure on application.

Immediately on the filing of any application for a permit as provided in Sections 5.02.010 and 5.02.020, the City Clerk shall place the acknowledged copy in the permanent records of his office, refer one copy to the City Manager and one copy to such official of the city the administrative functions of whom are those primarily concerned with the granting or denying of such permit, which latter official, hereinafter in this chapter referred to as the "investigating official," shall make such investigation of the applicant and of the facts set forth in such application as he or she shall deem advisable, and shall make a written report of such investigations, together with his or her recommendations relative to disposal of the application, to the City Manager Administrator, who shall proceed to act upon said application after a hearing set by the City Clerk for a day certain, not less than five days nor more than ~~thirty (30)~~ forty-five (45) days from the date of filing completed said application. At such hearing all persons interested shall be entitled to file objections, protests or recommendations in the premises. Such hearing may, by the City Manager Administrator, be continued over from time to time as circumstances may require; provided, however, that if hereinafter in this chapter specifically provided, the investigating official may grant the permit applied for without referring the same to the City Manager Administrator, and with or without a hearing thereon, as may be provided.

5.02.050 Notice of hearing on application.

The City Clerk shall in every case of application for permit, if a hearing is to be held thereon, notify the applicant of the time and place of such hearing to be held therein as in Section 5.02.030 provided, and such notice shall be given at least ~~three~~ thirty (30) days before the date of such hearing.

In the event that a public notice of the hearing on any application for a permit may be hereinafter in this chapter required, the City Clerk shall cause a notice to be published once in the official newspaper of the city at least ~~three~~ thirty (30) days before said hearing date, and cause a copy thereof to be posted upon the premises to be primarily affected by the granting of such permit, and a copy on the bulletin board near the Council Chambers. Such notice shall set forth the fact that such application has been filed, the name of the applicant, the nature of the thing to be permitted, and the time and place of hearing upon such application.

For applications involving the ongoing use of property, notice of the hearing shall be given by posting notices thereof within three hundred (300) feet of the property involved in the application. Notice of the hearing shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved and to all addresses

within three hundred (300) feet of the property. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing. The fee for the notification process, as established by the Master Fee Schedule, shall be a separate charge in addition to the application fee.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

10.7-2CL
ORA/COUNCIL

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Notice & Digest

Adopt An Ordinance Amending Oakland Municipal Code Chapter 5.02 to Provide More Notice to Residents of Business Permit Applications

This is an ordinance amending OMC Chapter 5.02 to require 30 days notice to the public of Business Permit hearings and requiring hearings to be set with 45 days of completion of applications for these permits. Mailed notice of the hearing will also be provided to property owners and residents within 300 feet of the applicant property.

10.7-2 CC

ORA/COUNCIL

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